

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 28, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 09HD-074

Hawaii

Grant of Perpetual, Non-Exclusive Easement to Hawaii Electric Light Co., Inc.
and Hawaiian Telcom, Inc.; Immediate Construction Right-of-Entry for Utility
Purposes, Halaula, North Kohala, Hawaii, Tax Map Key: (3) 5-3-010:056 por.

APPLICANT:

Hawaii Electric Light Co., Inc., a Hawaii corporation, whose business and mailing
address is P.O. Box 1027, Hilo, HI 96720-1027

Hawaiian Telcom, Inc., a Hawaii corporation, whose business and mailing address is
P. O. Box 2200, ABY3, Honolulu, HI 96822.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Pueke and Kukuiwaluhia situated at Halaula, North
Kohala, Hawaii, identified by Tax Map Key: (3) 5-3-010:056, as shown on the attached
maps labeled Exhibit A.

AREA:

To be determined by independent survey, as set forth in specific metes and bounds,
subject to review and verification by the Department of Accounting and General
Services, Survey Division.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: RS-15 / A-20a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Executive Order Nos. 775 and 998 to the Department of Public Instruction (now Department of Education) for the New Halawa School.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication and electrical transmission lines, poles, guy wires and anchors over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

ANNUAL RENT:

Not applicable.

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 for "Operations, repairs or maintenance of existing structures, facilities, [or] equipment . . . involving negligible or no expansion or change of use beyond that previously existing", and Exemption Class No. 3 for "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and alteration and modification of same" Also applicable is Exemption Class No. 4 for

"Minor alteration in the conditions of land, water or vegetation", and Item No. 4 thereunder that states "Minor cut, fill and grading of state property of less than 50 cubic yards of rock and/or soil where the vertical height of cut or fill does not exceed three feet."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Applicant in good standing confirmed:	YES <u>X</u>	NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from the Department of Education to the grant of easement;
- 2) Pay for an appraisal to determine initial one-time payment;
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The subject land was set-aside to the Department of Education's predecessor in 1937 and 1943 for the New Halawa School. DOE presently operates the Kohala Middle School on the site.

Surety Kohala Corporation (SKC) owns a parcel of land adjoining the school designated as TMK (3) 5-3-007:004. SKC has an agreement with Hawaii Wildlife Center (HWC), a non-profit corporation, that allows HWC to develop a fully equipped native wildlife recovery and conservation facility on the land behind the school. HWC is an Internal Revenue Code Section 501(c)(3) science-based conservation organization dedicated to the recovery and conservation of Hawaii's native wildlife through hands-on care, treatment, research, training, science education and cultural programs.

HWC requires electrical and telecommunication services for its operation. There are existing overhead telecommunication and electric transmission lines located on the subject DOE property as depicted in yellow on the site plan attached as Exhibit B. Hawaii Electric Light Co., Inc. and Hawaiian Telcom, Inc. (together, Applicant) have applied for a ten-foot wide easement covering the existing overhead lines as well as the proposed extension of the lines underground to the boundary of the SKC/HWC parcel. The underground portion of the easement is indicated in blue on Exhibit B. Several anchor sites are designated in the easement area on the site plan. The width of the easement for the anchors is five feet.

HWC provided staff with a letter from Kohala Middle School indicating its support for the creation of the wildlife center. Additionally, HWC has advised staff that the school has no objection to the grant of easement over the subject parcel. Staff has included as an Applicant Requirement above the requirement that Applicant secure the written concurrence of DOE to the grant of easement.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with its terms and conditions.

On July 23, 2009, staff solicited comments from several State and County agencies with the following results.

AGENCIES	COMMENTS
County of Hawaii	
Fire Department	No response
Planning	The zoning of the subject DOE parcel is RS-15/A-20a
Police Department	No objection
Public Works	No comment
Water Supply	No objection
State of Hawaii	
DOE-Kohala Middle School	Kohala Middle School supports the requested grant of easement. See Exhibit C attached.
DOT-Highways	It is unclear whether any work will be done in the State highway right-of-way. Any work done within the right-of-way shall be submitted for review and approval and a permit to perform work upon State highways shall be required.
Other agencies/ Organizations/ Interest Groups	
Office of Hawaiian Affairs	No response

In response to the comment received from DOT-Highways, staff understands that no work will be required in the State highway right-of-way in connection with the request.

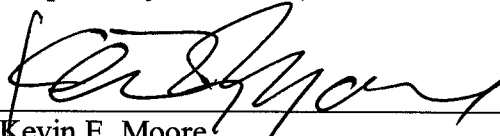
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above,

authorize the issuance of a perpetual, non-exclusive easement to Hawaii Electric Light Co., Inc. and Hawaiian Telcom, Inc. covering the subject area for electric and telecommunication utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:




- A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Grant an immediate construction right-of-entry to the Hawaii Electric Light Company, Inc., and Hawaiian Telcom, Inc., its consultants, contractors and/or persons acting for or on its behalf, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current right-of-entry form as may be amended from time to time;
 - B. This construction right-of-entry is effective upon the full execution of the right-of-entry permit and Applicant's submission of required insurance, and shall continue until the grant of easement document is issued; and
 - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,



Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson

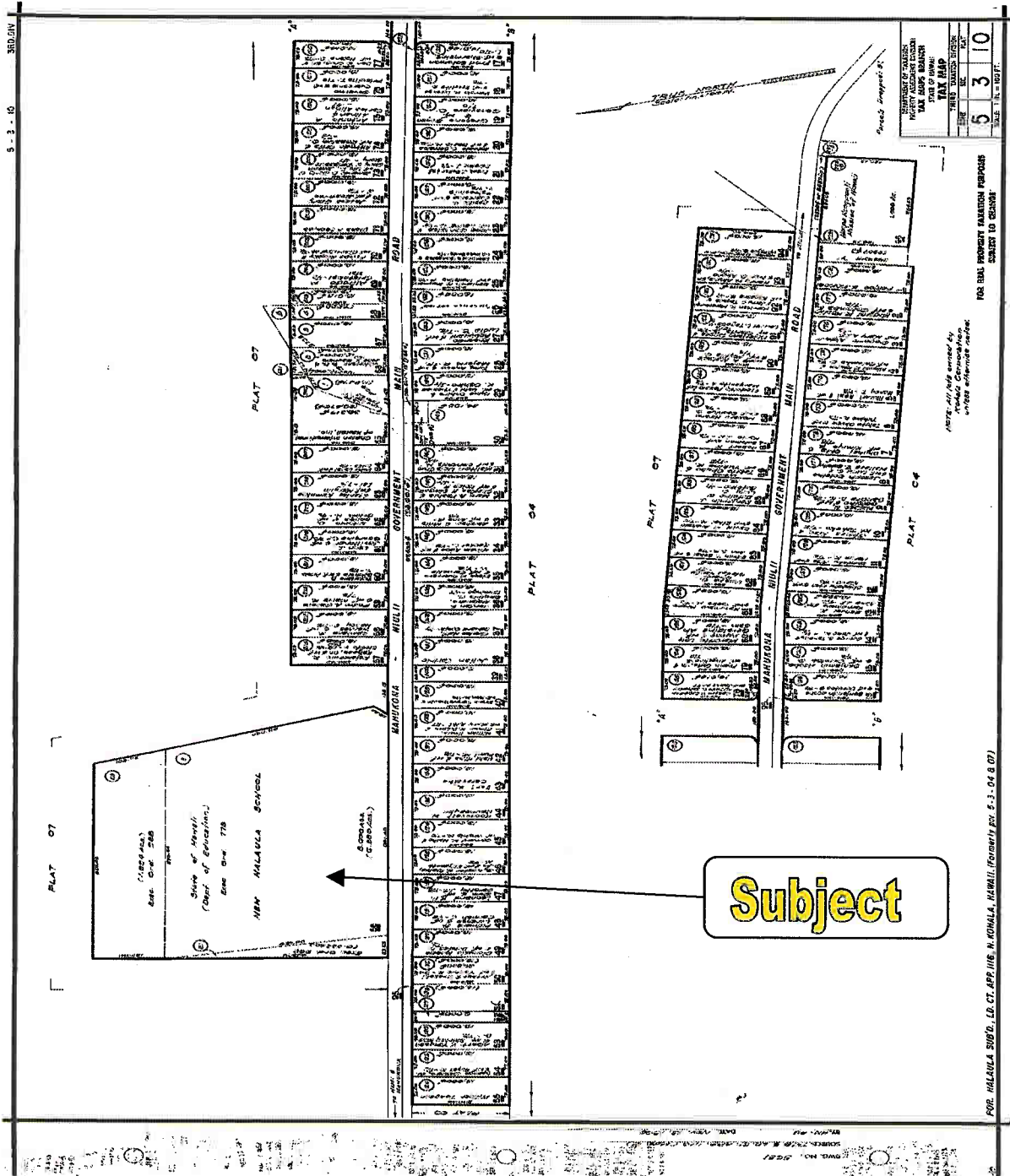


EXHIBIT A

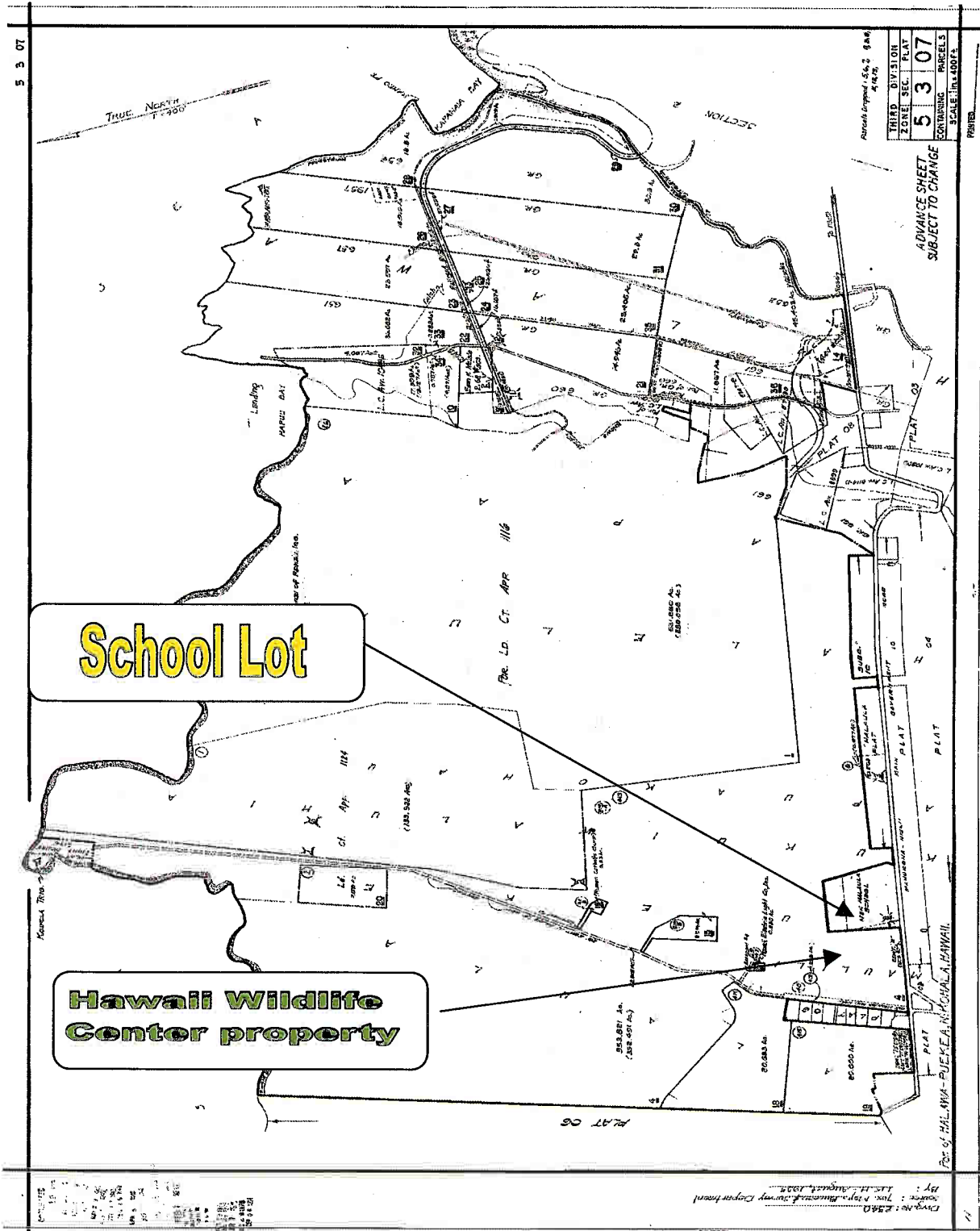
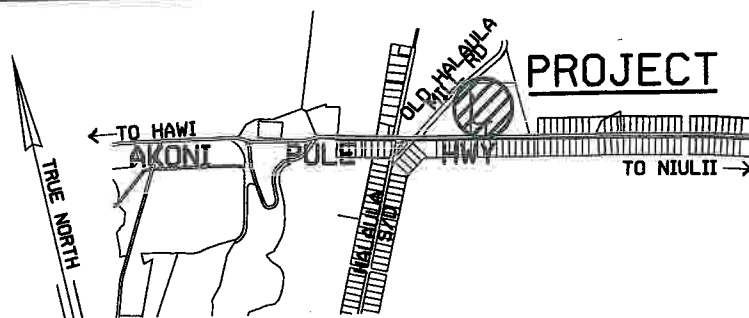
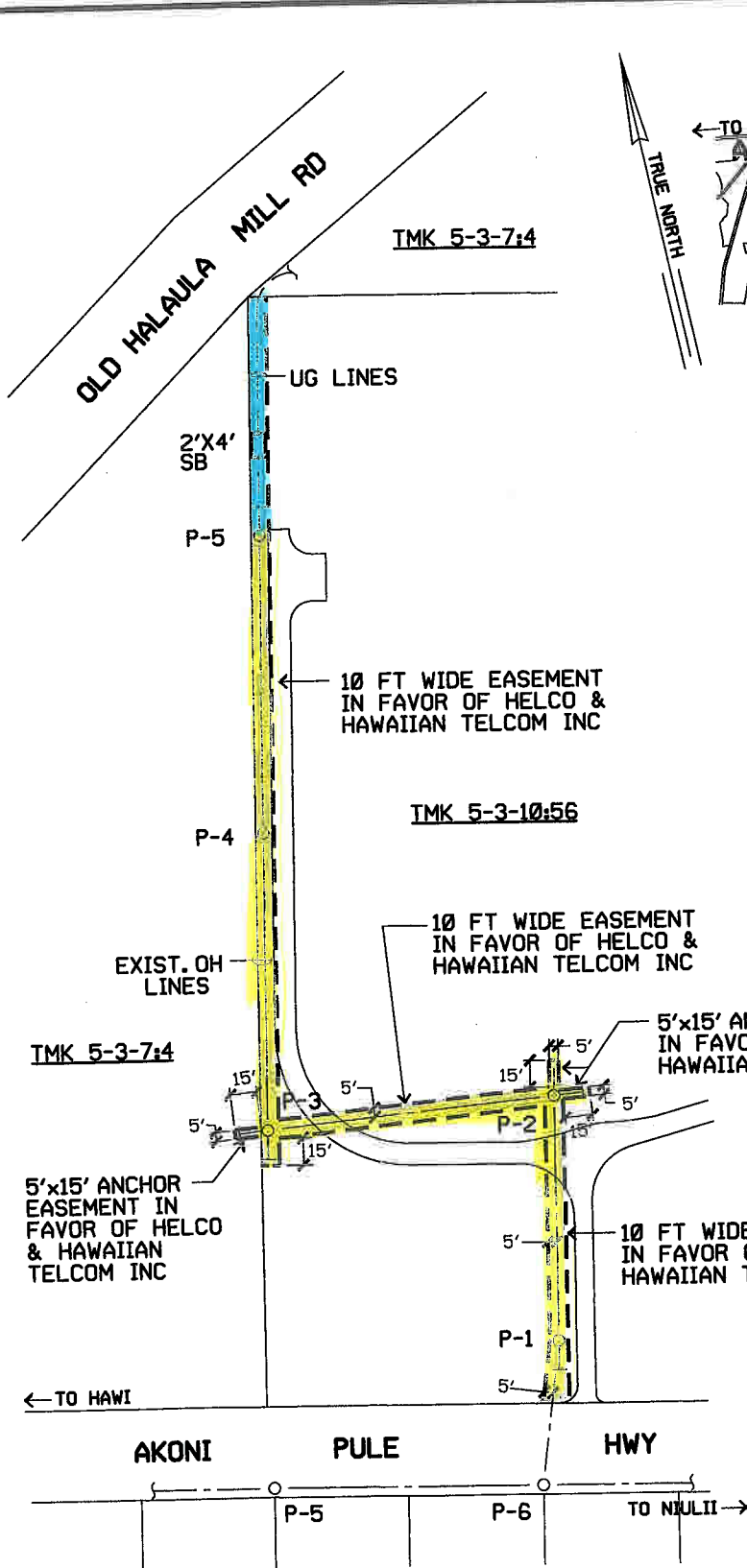


EXHIBIT A



LOCATION MAP
NOT TO SCALE

LEGEND

- ● POLE
- |— ANCHOR
- O.H. DISTRIBUTION LINES
- - - UG LINES
- SERVICE BOX

EXHIBIT B



SITE PLAN

SCALE : 1"=100'

EST./REQ. NO. H0045179		DESIGNED/DRAWN RV/RV	
CHK'D/APP'D CJV 6/9/09		SCALE AS NOTED	
PROJ. NO. H		DATE 6/8/09	
T.M.K. 5-3-7:4		NUMBER 08-E-945E	

HAWAII ELECTRIC LIGHT CO., INC.
ENGINEERING DEPARTMENT
HILO, HAWAII

HAWAII WILDLIFE CENTER
HALAULA, N. KOHALA
EASEMENT

Kevin E. Moore
Hawaii District Land Agent
Department of Land and Natural Resources, Land Division
75 Aupuni Street, Room 204
Hilo, HI 96720
Tel. (808) 974-6203

July 1, 2009

Subject: Support of the grant of easement over the Kohala Middle School Teacher's cottages lot for underground electric/telephone utility for the Hawai'i Wildlife Center

Dear Mr. Moore,

By this letter the Kohala Middle School supports the easement to use the existing power poles serving the Kohala Middle School teacher's cottages that adjoin the Hawai'i Wildlife Center (HWC) site for temporary and permanent electrical and phone service access. This easement will allow for the access to the closest service poles to serve the HWC and prevent delays and increased costs in the HWC development.

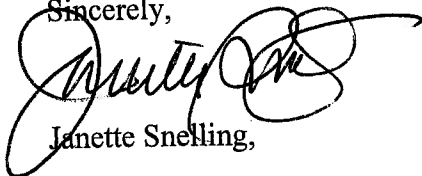
The Hawai'i Wildlife Center represents a facility that will offer many benefits to the State of Hawai'i. With its location being in close proximity to Kohala Middle School, the center offers significant partnership opportunities to students and staff. The properties of the school and HWC are in walking distance to one another making it possible to work together during the school day and without any transportation costs.

In addition to fulfilling its mission to serve Hawai'i's wildlife, the center's educational component offers a perfect opportunity for students at Kohala Middle School to apply their learning in an authentic learning environment. The HWC will offer many venues for project-based learning increases the depth of understanding that is richer and motivation to students. In addition, students will be exposed to the many benefits of service learning as their contribution to the HWC is anticipated to positively impact the broader community.

Linda Elliott has an established track record of working within the North Kohala Community. I have personally worked with her in a mentorship experience where she worked students for an extended period of time. She has a passion for expanding the base of students' opportunity to achieve. Her desire to create this facility is an admirable one with results that will have lasting impacts throughout the state.

Please favorably consider the utility easement request for the HWC.

Sincerely,



Janette Snelling,

Principal, Kohala Middle School

EXHIBIT C